

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

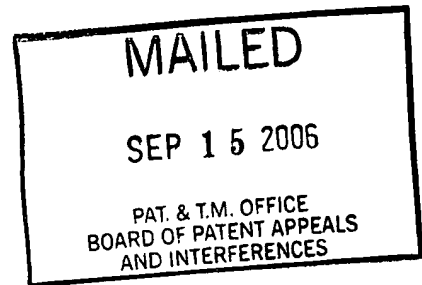
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HOWARD MARANTZ,
NEMMARA CHITHAMBARAM, and SCOTT DING

Appeal No. 2006-2141
Application 09/629,117

ON BRIEF



Before THOMAS, HAIRSTON, and SMITH, JERRY, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 11, 12, 23, 24, 35 through 37, 41, 45 and 49.

Representative independent claim 11 is reproduced below:

11. A system for accessing geographic information comprising:

(a) a personal digital assistant;

(b) an application on the personal digital assistant, the application configured to:

(i) request map data from a servlet;

(ii) receive the map data in a mapset constructed prior to the servlet receiving the request, wherein the mapset comprises map data for two or more maps;

(iii) format the map data;

(iv) display the map data on a screen of the personal digital assistant.

The following reference is relied on by the examiner:

Berstis	6,182,010	Jan. 30, 2001
		(filed Jan. 28, 1999)

All claims on appeal, claims 11, 12, 23, 24, 35 through 37, 41, 45 and 49 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Berstis alone.

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and reply brief for appellants' positions, and to the answer for the examiner's positions.

OPINION

Generally for the reasons set forth by the examiner in the answer, as expanded upon/modified here, we sustain the rejection of all claims on appeal under 35 U.S.C. § 103.

In the brief and reply brief, appellants present arguments as to independent claims 11, 23 and 35 collectively. The same approach is applied to the subject matter of independent claims 41, 45 and 49. As page 8 of the principal brief on appeal notes, dependent claim 37 is not argued, but the features of dependent claims 12, 24 and 36 are also commonly argued.

The feature in dispute in representative independent claim 11 is “receive the map data in a mapset constructed prior to the servlet receiving the request, wherein the mapset comprises map data for two or more maps.” To the extent the brief and reply brief actually argue that two maps are retrieved, we note that the claim only requires that the mapset comprise map data “for” two or more maps. Appellants have collectively argued the features of “map data for two or more maps” and the feature of the construction of “the map data in a mapset constructed prior to the servlet receiving the request” collectively. Thus, the claims do not require, even as argued, at the middle of page 5 of the principal brief on appeal, that two or

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more maps are constructed together into the mapset prior to the request for map data.

In contrast to the general argument at the middle of page 2 of the principal brief on appeal that the specification provides a definition of the term “mapset,” it is not until the middle of page 2 of the reply brief that appellants make specific reference to the paragraph bridging specification pages 19 and 20. The broadly defined map data 408 is said to be a mapset which in turn, to the extent not recited in independent claim 11 on appeal, is plural maps that appear as an initial map that can be zoomed or maps that appear as links on an initial or zoomed map. These latter requirements are not recited in any claim on appeal. Therefore, to the extent appellants invite us to read these features of the disclosed invention into the claims, we will not do so since appellants are free to amend the present claims on appeal to include such features.

Moreover, the claims only recite “a mapset.” Contrary to the specific arguments made for the first time in the reply brief at pages 3 and 4, a single mapset is not recited in the claims on appeal. The broadly defined “a mapset” is inclusive of the capability of a system such as in Berstis to provide two mapsets with a plurality of maps therein, which in a sense may

characterize the examiner's basic position. We therefore agree with the examiner that the ability of Berstis to seek an initial map or map information with the capability of also presenting to the viewer a visual image or graphical display, such as a photograph, in a pop-up window as depicted in Figures 4 and 5, is consistent with the scope of representative independent claim 11 on appeal. Even to the extent that Berstis may teach to the artisan that the visual image or photograph or the like may be separately retrieved or subsequently retrieved from the initial map information, the claim does not explicitly exclude this capability. Note also that Figure 5's pop-up window 93 may be considered as a zoomed view of intersection 90 of Figure 4.

This analysis leads us to a second major argument throughout the brief and reply brief from appellants. They take the position that a photograph is not a map within the context of the plurality of maps recited in claim 11 on appeal. We as well as the examiner disagree with this approach. Clearly, to the artisan within 35 U.S.C. § 103, the teachings in Berstis are such that a photograph or visual image or the like is actually used as a map or map information or the broadly defined "map data" of the claims on appeal. Moreover, it is noted that Figure 5 in Berstis shows a pop-up window 93 with a visual image of map-like information depicting an

intersection 90 in detail. Column 7, lines 62-65 make it plain that “the particular image displayed on the pervasive computing client display need not be limited to a street or road. The image may be of any landmark, building, sign, road, or the like.” Therefore, the image data no matter how it is characterized in Berstis may be fairly considered as map data or part of a mapset as claimed.

Even if we were to agree with appellants’ position that only a single mapset is recited in representative independent claim 11 on appeal, the reference plainly teaches that this visual image information may comprise plural photographs and even video information when, once retrieved from a server, may both comprise plural map images. Note the discussion at column 2 in the Summary of the Invention as well as the lengthy discussion at columns 6 and 7. The system plainly has a capability of storing and therefore the user retrieving plural photographs or images of a given intersectional landmark or the like thus comprising a plurality of maps. In this sense then, Berstis therefore teaches a mapset of two or more maps as claimed. Obviously, within 35 U.S.C. § 103, a video image comprises plural frames and therefore plural maps of a given location, as detailed at the middle of column 7. Appellants’ brief and reply brief do not mention, let

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alone address, the teachings of plural photographs/video images of plural frames as comprising plural maps to the extent recited in representative independent claim 11 on appeal.

Next, we turn to the features recited in representative dependent claim 12 on appeal where it is stated that the request is a 'GET' HTTP request. As to this feature, we agree with the examiner's position set forth at pages 5 and 7 of the answer as to this subject matter. Because the reference contemplates Internet service, to the extent by specifically mentioning HTML protocols and a specific usability of servlets at column 4 of Berstis, it appears to us that the artisan would have clearly been taught or otherwise suggested the capability recited in claim 12 on appeal. The "GET" command in this claim is known in the Internet communications art. At a minimum, the reference would teach to the artisan that Berstis contemplates such capabilities because of the expansive teachings at column 4 with respect to the showing in Figure 2. We therefore conclude that, from an artisan's perspective, it would have been obvious to have used the capabilities of HTTP and servlets to get or otherwise fetch map data from a single or plurality of servers. The arguments at pages 7 and 8 of the

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principal brief on appeal and the arguments at page 5 of the reply brief do not address these teachings in Berstis.

Lastly, we address the subject matter of representative independent claim 41 on appeal. This claim recites, as a distinguishing characteristic over the subject matter of representative independent claim 11 on appeal, the broadly defined application configured to “receive the map data in a mapset constructed in parallel on multiple processing units.” Again, we make reference to our previous discussion that a single mapset is not required by any claim on appeal. Therefore, the artisan may well consider the ability shown in Figure 2 and the discussion at the bottom of column 2 and the middle of column 5 of utilizing GPS as encompassing an ability of one processing unit to get the broadly defined “map data.” Notwithstanding this, the reference plainly teaches at column 4, the ability of the system to have access to a single as well as a plurality of servers thus permitting the parallel construction of broadly defined map data from plural sources or servers or processing units.

To the extent broadly claimed, these teachings and suggestions in Berstis, within 35 U.S.C. § 103, plainly address arguments at pages 8 and 9 of the principal brief on appeal. Taken alone, the examiner’s “design

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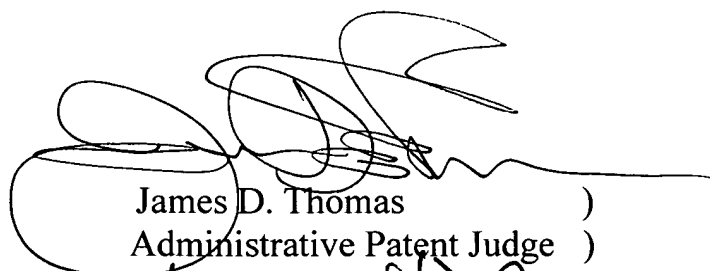
choice” line of reasoning as to representative independent claim 41 on appeal at the bottom of page 7 of the answer is highly disfavored. The additional approach of the examiner there that the artisan “could easily construct the mapset in parallel on multiples CPU’s” begs the question and effectively is an argument based on hindsight. Notwithstanding appellants’ corresponding arguments at pages 5 through 7 of the reply brief with respect to the subject matter of representative independent claim 41 on appeal, the reference does appear to specifically teach or otherwise suggest to the artisan the nature of the subject matter of this representative claim on appeal.

In view of the foregoing, the decision of the examiner rejecting all claims on appeal under 35 U.S.C. § 103 is affirmed.

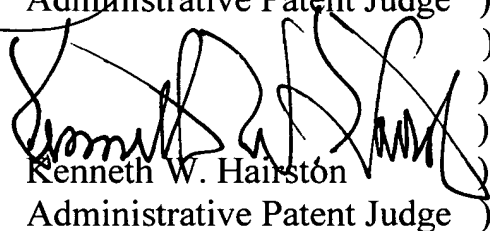
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No time period for taking any subsequent action in connection with
this appeal may be extended under 37 CFR § 1.136(a).

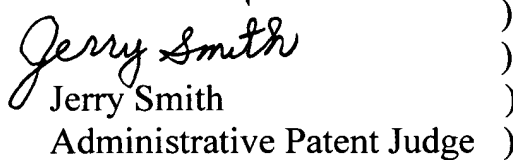
AFFIRMED



James D. Thomas
Administrative Patent Judge



Kenneth W. Hairston
Administrative Patent Judge



Jerry Smith
Administrative Patent Judge

BOARD OF PATENT
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JDT:tdl

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